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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/931,223	08/16/2001	Thomer Michael Gil	12221-007001	2855

26161 7590 11/19/2004

FISH & RICHARDSON PC  
225 FRANKLIN ST  
BOSTON, MA 02110

EXAMINER

NGUYEN, TRONG NHAN P

ART UNIT	PAPER NUMBER
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2152

DATE MAILED: 11/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/931,223	<b>Applicant(s)</b> GIL ET AL.	
	<b>Examiner</b> Jack P Nguyen	<b>Art Unit</b> 2152	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 August 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-49 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |  |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. <u>11/12/04</u> . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                    | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                                    |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____. | 6) <input type="checkbox"/> Other: _____.  |

### **DETAILED ACTION**

Claims 1-49 are being examined.

#### ***Election/Restrictions***

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Group 1: Claims 1-21 are drawn to a method for monitoring the traffic flow of data and producing statistics corresponding to a parameter of the traffic flow in 709, subclass 224.
- II. Group 2: Claims 22-44 are drawn to a method for pinpointing a fault using proactive testing and alerting appropriate authorities when resources are under attack by unauthorized intruders in class 714, subclass 25.
- III. Group 3: Claims 45-49 are drawn to a method for performance monitoring and creating log files for fault avoidance in class 714, subclass 47.

Inventions I, II, and III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. Invention I has a separate utility such as in a system lacking pinpointing a fault using proactive testing and alerting appropriate authorities when resources are under attack by unauthorized intruders, and for performance monitoring and creating log files for fault avoidance. Invention II has a separate utility such as in a system lacking for monitoring the traffic flow of data and producing statistics corresponding to a parameter of the traffic flow and for performance monitoring and creating log files for fault avoidance. Invention III has a separate utility such as in a system lacking for monitoring the traffic flow of data and producing

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statistics corresponding to a parameter of the traffic flow and for pinpointing a fault using proactive testing and alerting appropriate authorities when resources are under attack by unauthorized intruders. See MPEP § 806.05(d).

These inventions are distinct for the reasons given above, and the search required for each Group is different and not co-extensive for examination purpose. For example, the searches for the two inventions would not be co-extensive because these groups would require different searches on PTO's classification class and subclass as following:

(a) Group I search (claims 1-21) would require use of search **Class 709, subclass 224.**

(b) Group II search (claims 22-44) would require use of search **Class 714, subclass 25.**

(c) Group III search (claims 45-49) would require use of search **Class 714, subclass 47.**

A telephone call was conducted with Mr. Denis Maloney, the applicant's representative, on November 12, 2004 to address the possibility of a restriction election. The applicant requested a restriction notice be sent out so they can evaluate further actions.

Applicant is given ONE MONTH or THIRTY DAYS from the date of this letter, whichever is longer, to cancel the noted claims or take other appropriate action (37 CFR 1.144). Failure to take action during this period will be treated as authorization to cancel

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the noted claims. The prosecution of this case is closed except for consideration of the above matter.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack P Nguyen whose telephone number is (571) 272-3945. The examiner can normally be reached on M-F 8:30-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (571) 272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jpn



Dung C. Dinn  
Primary Examiner